

## DOCKET NO. 2011-\_\_\_\_-C

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2. All correspondence, notices, inquiries, and other communications regarding this

Motion should be addressed to:

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## **I. Description of Confidential Information**

The Application requires Applicant to disclose evidence of its financial ability to provide service by submitting documentation of its financial resources. Pursuant to this requirement, Common Point is submitting copies of its financial statements. These documents contain highly confidential and strictly proprietary information, the public disclosure of which would result in direct, immediate and substantial harm to Common Point's competitive position in South Carolina and in other states where Common Point is currently doing business.

## **II. Grounds for Claim of Confidentiality**

The financial information submitted by Common Point in **Exhibit 3** of its Application fits squarely within the definition of a "trade secret" under the South Carolina Trade Secrets Act.<sup>1</sup> As a privately-held company, Common Point's financial qualifications are not readily ascertainable. Common Point currently has no legal obligation to prepare or submit projected financial statements, or to report any financial information to a public entity. Further, the unavailability of this information derives independent economic value for Common Point

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<sup>1</sup> A "trade secret" is defined in S.C. Code § 39-8-20(5)(a) as information that "(i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by the public...and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy."

because the disclosure of such information would jeopardize Common Point's relationship with its investors and harm Common Point's ability to compete in the provision of advanced telecommunications services in South Carolina. Common Point is not a public corporation and its financial and business information is uniquely sensitive.

Common Point takes considerable efforts to maintain the secrecy of the information contained in its financial statements. Financial information of this type is not publicly disseminated, and Common Point takes reasonable steps to guard this information internally as well. Its disclosure is limited to Common Point's senior officers, Common Point's counsel and employees of the company who are directly involved with Common Point's financial operations. Furthermore, when required to submit financial information to public authorities, all such information is clearly stamped "confidential" and is accompanied by formal requests to maintain the confidentiality of the information and to withhold it from public disclosure.

Common Point clarifies that its request for protection applies only to the financial information contained in **Exhibit 3** to the Application. Common Point is not seeking protection of any type by means of this Motion for those reports Common Point will be required to file with the Office of Regulatory Staff ("ORS") should the relief sought in the Application be granted: the Annual Report Form, Gross Receipts Report, or the Universal Service Fund Worksheet.

### **III. Conclusion**

The financial information included in support of Common Point's Application, for which confidential treatment is requested, is both proprietary and competitively sensitive. Common Point would suffer substantial direct harm if such information is made publicly available. The harm that would result from public disclosure of Common Point's financial information is real and not speculative. Moreover, to date, no other jurisdiction has required Common Point to make its financial information publicly available. For the foregoing reasons, the financial

information included in **Exhibit 3** should be protected from public disclosure by the Commission.

WHEREFORE, Common Point respectfully requests that the information contained in **Exhibit 3** of Common Point's Application for a Certificate of Public Convenience and Necessity be ruled exempt from public disclosure and provided confidential treatment in accordance with S.C. Code Ann. § 39-8-10, *et seq.*

Respectfully submitted,

**COMMON POINT, LLC**

s/ John J. Pringle, Jr.

John J. Pringle, Jr.

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August 17, 2011  
Columbia, South Carolina